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Letter dated 8 December 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 25 April 2003 (S/2003/475).

The Counter-Terrorism Committee has received the attached third report from Latvia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-65800 (E) 020104

Annex

Note verbale dated 4 December 2003 from the Permanent Mission of Latvia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Latvia to the United Nations presents its compliments to the Counter-Terrorism Committee and, with reference to the letter of the Chairman of the Committee dated 2 April 2003, apologizes for the delay and has the honour to forward, enclosed herewith, the answers to the questions and comments of the Committee with regard to the supplementary report provided by the Republic of Latvia (see enclosure).

Enclosure

ANSWERS TO THE QUESTIONS AND COMMENTS OF THE COUNTER-TERRORISM COMMITTEE WITH REGARD TO THE SUPPLEMENTARY REPORT PROVIDED BY THE REPUBLIC OF LATVIA

CTC comment 1.2 : For an act to constitute an offence as described above it is not necessary that the funds are actually used to carry out a terrorist offence (see article 2, paragraph 3 of the International Convention for the Suppression of the Financing of Terrorism. The current provisions of the law of Latvia do not appear to meet the abovementioned requirements adequately.

As already stated in the supplementary report Latvia has ratified International Convention for the Suppression of the Financing of Terrorism on 26 September 2002 and furthermore it has ratified all other major international anti-terrorism conventions. According to law of Latvia all international legal instruments when ratified become legaly binding and are directly applicable in the judicial system of Latvia.

CTC comment 1.3: The CTC would appreciate receiving a progress report on the enactment of amendments, aimed at supplementing the provisions of Article 88 of the Criminal law, with a view to establishing the financing of terrorism, terrorist groups or terrorist acts (item 53 to 69 of the supplementary report) as a separate criminal offences.

Amendments prepared by the Ministry of Justice stating the financing of terrorism, terrorist groups or terrorist acts as a separate criminal offences were adopted by the government. Amendments later were rejected by the Parliament by saying that there is no further need to amend the Criminal law and particularly Article 88, which states terrorism as a criminal offence clearly enough.

CTC comment 1.4: The supplementary report states that under the Credit Institution Law an adjunction by a court or a sanction from a prosecutor is required before financial assets of lawful origin can be frozen. The CTC would therefore appreciate receiving further information from Latvia in relation to its legal provisions for freezing funds which are suspected of being linked to terrorists, but which have not yet being used in the commission of terrorist acts. Please provide particulars of how Latvia meets, or proposes to meet, that requirement.

No amendments have been made to the Credit Institution Law since supplementary report was submitted. The abovementioned law states in its section 65 the following:

"(1) Attachment of the monetary funds and other valuables of legal persons, which are placed at a credit institution, or imposition of arrest on them may only occur on the basis of a court issued execution document, a bailiff's order or by the sanction of a prosecutor, but a partial or complete suspension of the account operations of such persons shall be performed at the request of the State Revenue Service.

(2) Collection of the monetary funds and other valuables of legal persons may be exercised on the basis of a court issued execution document, a bailiff's order or also at the request of the tax

administration – in cases provided for in the tax laws, but at the request of the State Revenue Service – also in cases provided for by other laws.

(3) Collection of the budgetary funds of local governments, which are located at a credit institution, may be exercised by uncontested procedures at the request of the State Treasury in cases provided for by other laws."

The Law "On Prevention of the Laundering of the Proceeds from Crime" obliges every credit institution or financial institution to refrain from conducting a transaction if there is a cause to suspect that this particular transaction is associated with the laundering or attempted laundering of proceeds of crime. Funds of persons who commit, attempt to commit, participate in or facilitate the commission of terrorist acts are considered to be proceeds of crime according to Latvian law.

CTC question 1.5: The supplementary report states in item 39 that money transmission services are considered as a "financial transaction" and in item 40 that "every financial and credit institution affined to or involved in financial transactions for the purpose of preventing the use of these financial transactions for money laundering and funding of terrorism". Would these provisions cover the alternative money transfer mechanisms or agencies?

Provisions outlined in items 39 and 40 of the supplementary report are applicable to all financial institutions and credit institutions without any exemptions as regards to "alternative money transfer mechanisms or agencies".

CTC comment 1.6: Effective implementation of paragraph 1 of the Resolution also requires an appropriate monitoring mechanism (involving for example, registration and auditing requirements) to ensure that the funds collected by organizations, which have or claim to have charitable, social or cultural goals are not diverted to purposes other than their stated purposes.

According to the Law "On public organizations and associations" a fund can be established only when registered as a public organization in Register of Enterprises. Such a fund should have a statute where it is clearly stated for what purpose it collects donations and how these will be spent afterwards. There is a special provision set out in Council of Ministers Regulation, under which each fund after being registered as mentioned above, is obliged to receive permit from the Ministry of Finance for receiving donations. The Ministry of Finance is entitled to audit these funds and in case donations are being spent other than stated in statute and permission, to recall that permission. By all means complaint can be brought before the competent authorities to examine possibility of unlawful actions.

CTC comment 1.7: The CTC is aware that Latvia may already have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards.

Latvia has not submitted to other organization any other report or questionnaire related to the points covered by two previous reports made to CTC and these additional answers.

CTC comment 1.8: The CTC would appreciate receiving a progress report on the drafting and enactment of the Law on Criminal Procedure.

In June this year a new Law on Criminal Procedure has been passed over to Parliament for approval. The law should be considered in three readings, first of which took place on June 18, 2003. Now there is a period for submission of proposals before the second reading.

CTC comment 1.9: The CTC would be grateful for a progress report on the implementation in domestic law of the international instruments relating to terrorism, which Latvia has already ratified.

Latvia would like to refer to previous reports and confirm once more, that it has ratified all major anti-terrorism conventions and provisions set out in these conventions are directly applicable and thus they have impact on domestic law.